IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

WP(C).No. 32402 of 2005(G)

AGAINST THE ORDER IN EP108/04 IN EA384/05 IN OS.56/2001 of ADDL.MUNSIFF COURT, ALAPPUZHA

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PETITIONER:

RAJAPPAN, AGED 72 YEARS,
PUTHENPARAMBIL VEEDU, MAMBUZHAKKARI.

BY ADV. SRI.K.S.HARIHARAPUTHRAN

RESPONDENTS:

K.VASAPPAN, PUSHPAMANGALAM VEEDU,
MAMPUZHAKKARI, RAMANKARI.

BY ADV. SRI.A.KRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO. 32402/2005

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE OBJECTION FILED BY THE PETITIONER IN E.P. NO.108/2004

EXT.P2: COPY OF ORDER PASSED BY THE ADDL. MUNSIFF'S ALAPPUZHA IN E.A. NO.384/05 IN E.P. 108/04 IN O.S. 56/01 DATED 18.10.2005

EXT.P3: COPY OF ORDER DATED 15.7.2005 IN E.P. NO. 108/2004 IN O.S. 56/2001

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 32402 of 2005

Dated this the 7th day of June, 2007

JUDGMENT

The order of arrest issued by the Execution Court is under challenge. This court while granting stay imposed a condition that the petitioner shall pay a sum of Rs.10,000/- within one month from that day. It is fairly conceded by the learned counsel for the petitioner that the above condition was not complied with. But according to the learned counsel the very contentions of the petitioner is that the petitioner is penniless and therefore could not have complied with the condition and he could not be expected to comply with the condition. Counsel also submitted subsequently petition under insolvency Act has also been filed. Even though the impugned order is a cryptic one warranting interference by this court, I do not think that this court will be justified in invoking jurisdiction in favour of a person who refused to comply with the condition imposed by this

court. At any rate, the petitioner has already filed insolvency petition. It is for the petitioner to pursue his remedy before the Insolvency Court.

With the above observations, the writ petition will stand dismissed.

PIUS C. KURIAKOSE,
JUDGE.

dpk